

Title X Final Rule At-A-Glance

July 16, 2019

National
Family Planning
& Reproductive Health Association

Topic	Requirement	Implementation Date(s) ¹	Section(s)
Application of Requirements	The requirements apply to <i>all</i> grantees and subrecipients, as well as the subrecipients of subrecipients (hereinafter referred to collectively as "voluntary family planning projects").	60 days	59.1(a)
Abortion	Voluntary family planning projects must not provide, promote, refer for, support, encourage, or advocate abortion as a method of family planning. As part of this prohibition, actions in a voluntary family planning project that assist women to obtain or that increase the availability or accessibility of abortions for family planning purposes are prohibited.	60 days ²	59.5(a)(5) and 59.16(a)(1)
	A voluntary family planning project must not take any affirmative action to assist a patient to secure such an abortion.	120 days	59.14(a)
	Prohibited actions include the use of Title X funds for: <ul style="list-style-type: none">• Lobbying for the passage of legislation to increase (in any way) the availability of abortion care;• Providing speakers or educators who promote abortion care;• Attending events or conferences during which the grantee or subrecipient engages in lobbying (regardless of whether the lobbying relates to abortion care);• Paying dues to any group that, as a more than an insignificant part of its activities, advocates for abortion care, and does not separately collect and segregate funds used for lobbying purposes;• Using legal action to increase the availability of abortion care; and• Developing or disseminating materials, including print, audiovisual, or web-based, that advocate for abortion care. See <i>Clients with a Positive Pregnancy Test</i> (p. 3) for more information about requirements related to abortion for family planning purposes.	60 days	59.16(a)(2)

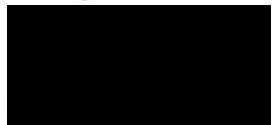
¹ As published in the final rule, 60 days = May 3, 2019; 120 days = July 2, 2019; 1 year = March 4, 2020.

² The prohibition on performing, promoting, referring for, or supporting abortion as a method of family planning is also included in § 59.14(a) with an implementation date of 120 days, but since the same prohibition appears in § 59.5(a)(5) with an implementation date of 60 days, this prohibition is being read as applying at 60 days.

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Insured Clients without Coverage for Contraception	<p>Voluntary family planning projects <i>may</i> (but are not required to) consider a woman's health insurance coverage status, specifically whether she has health insurance coverage that does not provide contraceptive services because of the employer's religious or moral objections, as a good reason for her inability to pay for contraceptive services. If the project director chooses to consider this factor, they <i>must</i> consider other circumstances affecting the woman's ability to pay, such as her total income.</p> <p>If the project director chooses to consider the woman's health insurance coverage status for these purposes, the director may consider the woman's annual income as being reduced by the total annual out-of-pocket costs of contraceptive services she uses or seeks to use.</p>	60 days	59.2, Definition of "Low income family"
Unemancipated Minors	<p>When serving an unemancipated minor who wishes to receive services on a confidential basis, voluntary family planning projects must use the minor's income alone as family income, provided that the provider has documented in the minor's medical record the specific actions taken by the provider to encourage the minor to involve their family in their decision to seek family planning services.</p> <p>Such documentation is not required <i>if</i> the provider has documented in the medical record (1) that the provider suspects the minor to be the victim of child abuse or incest; <i>and</i> (2) the provider has reported the situation to relevant authorities, as consistent with, and if permitted or required by, applicable State or local laws.</p> <p>Voluntary family planning projects must encourage family participation in the decision to seek family planning services; <i>and</i>, with respect to each minor patient, ensure that records document the specific actions taken to encourage such family participation (or the specific reason why family participation was not encouraged).</p>	60 days 	59.2, Definition of "Low income family"/> 59.5(a)(14) 59.17(b)(2)(i-iii)

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Clients with a Positive Pregnancy Test	Nondirective options counseling is no longer required.	60 days	Former requirement at 59.5(a)(5) removed and replaced
	When provided through a voluntary family planning project, non-directive options counseling must only be provided by physicians or advanced practice providers.	120 days	59.14(b)(1)(i)
	Voluntary family planning projects must refer all pregnant clients to a health care provider for prenatal health care.	120 days	59.14(b)(1)
	Title X providers may (but are not required to) additionally provide pregnant patients with the following counseling and/or information: <ul style="list-style-type: none">• “Nondirective pregnancy counseling” (that does not run afoul of the rule’s broad prohibitions on promoting, supporting, encouraging, or advocating for abortion care) but only when provided by a physician or advanced practice provider;• A list of licensed, qualified, comprehensive primary health care providers (including providers of prenatal care);• Referral to social services or adoption agencies; and/or• Information about maintaining the health of the “mother and unborn child” during pregnancy.	120 days	59.14(b)(1)(i)-(iv)
	In cases in which emergency care is required, the voluntary family planning project is only required to refer the patient immediately to an appropriate medical provider to address the emergency.	120 days	59.14(b)(2); see also 59.14(e)(2)

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Topic	Requirement	Implementation Date(s) ¹	Section(s)
Clients with a Positive Pregnancy Test (cont'd)	<p>Any referral list of comprehensive primary care providers that a voluntary family planning project provides to a pregnant patient must not indirectly encourage or promote abortion as a method of family planning.</p> <p>This list is no required to include abortion providers.</p> <p>If this list does include abortion providers:</p> <ul style="list-style-type: none">• Only some, but not a majority of, providers on the list can be abortion providers;• The abortion providers must be licensed, qualified, comprehensive primary health care providers that also provide abortion as part of their comprehensive health care services;• Neither the list nor project staff can identify which providers on the list, if any, provide abortion care.	120 days	59.14(c)(1)-(2)
Primary Care	Voluntary family planning projects should either offer comprehensive primary health services onsite or have robust referral linkages with primary health providers who are in close physical proximity to the Title X site.	120 days	59.5(a)(12)

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Topic	Requirement	Implementation Date(s) ¹	Section(s)	
Financial Separation	<p>Voluntary family planning projects must be organized so the project is physically and financially separate from activities prohibited under section 1008 of Title X (prohibition on abortion as a method of family planning in Title X) and §§ 59.13, 59.14, and 59.16 (see <i>Clients with a Positive Pregnancy Test</i> (p. 3-4) and <i>Abortion</i> (p. 1)).</p> <p>Such separation requires projects to have objective integrity and independence from prohibited activities, as determined by the Secretary of HHS.</p> <p>Factors relevant to the Secretary's determination include the separation between projects and prohibited activities in:</p> <ul style="list-style-type: none">• Accounting records;• Facilities (e.g., treatment, consultation, examination and waiting rooms, office entrances and exits, phone numbers, email addresses, educational services, websites);• Personnel;• Electronic and/or paper-based health care records;• Workstations;• Forms;• Signage;• Printed materials (specifically, the absence of signs and material referencing or promoting abortion). <p><i>Physical Separation Requirements, effective 1 year after publication of the final rule, are not listed in this document.</i></p>	120 days (financial separation)	59.15	
		Voluntary family planning projects cannot use Title X funds to build infrastructure for purposes prohibited with these funds, such as support for the abortion business of a Title X grantee or subrecipient.	120 days	59.18(a)
		Each voluntary family planning project is required to fully account for, and justify, charges against the Title X grant. HHS will put additional protections in place to prevent possible misuse of Title X funds through misbilling or overbilling, or any other unallowable expense.	120 days	59.18(c)

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Topic	Requirement	Implementation Date(s) ¹	Section(s)
Compliance	Grantees must require and ensure that subrecipients (including the subrecipients of subrecipients) comply with all requirements within the final rule. Regulatory requirements must be reflected in all subrecipients' written contracts.	60 days	59.1(a)
	Voluntary family planning projects cannot use concern with protecting the confidentiality of patient information as a rationale for noncompliance with laws requiring notification or reporting of child abuse, child molestation, sexual abuse, rape, incest, intimate partner violence, or human trafficking.	60 days	59.11
	A voluntary family planning project may not receive Title X funds unless the grantee provides assurance satisfactory to the Secretary of HHS that the project does not provide abortion and does not include abortion as a method of family planning. Such assurance must include, at a minimum, representations (supported by documentary evidence where the Secretary requests it) of compliance with each of the requirements in §§ 59.14 ("Requirements and limitations with respect to post-conception activities") and 59.16 ("Prohibition on activities that encourage, promote or advocate for abortion").	120 days	59.13

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Compliance (cont'd)	<p>A voluntary family planning project may not receive Title X funds unless it provides appropriate documentation or other assurance satisfactory to the Secretary that it has in place and implements a plan to comply with State and local notification laws (hereinafter collectively referred to as "State notification laws"), including establishing policies and procedures that include:</p> <ul style="list-style-type: none">• A summary of obligations as they relate to State notification laws, including any obligation to inquire about or determine the age of a minor client or of a minor client's sexual partner(s);• Timely and adequate annual training of all individuals (whether or not they are employees) serving clients for, or on behalf of, the project regarding State notification laws and compliance with such laws; notification and reporting of child abuse, child molestation, sexual abuse, rape, incest, intimate partner violence, and human trafficking; and interventions, strategies, and referrals to improve the safety and current situation of the patient;• Protocols to ensure that every minor patient is provided with counseling on how to resist coercion to engage in sexual activities; and• Commitment to conduct a preliminary screening of any minor who presents with a sexually transmitted disease (STD), pregnancy, or any suspicion of abuse, in order to rule out victimization. <p>In order to receive Title X funds, a voluntary family planning project must also maintain records to demonstrate compliance with each of the requirements listed above; this includes records that indicate the age of minor clients, the age(s) of the minor client's sexual partners (if such age is an element of a State notification law under which a report is required), and each notification or report made in accordance with State notification laws.</p> <p>Continuation of grantee or subrecipient funding for Title X services is contingent upon demonstrating to the satisfaction of the Secretary that the criteria have been met.</p>	120 days	59.17(b)-(d)
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Topic	Requirement	Implementation Date(s) ¹	Section(s)
Compliance (con't)	<p>The Secretary may review records maintained by a grantee or subrecipient for the purpose of ensuring compliance with the requirements of this section, the requirement to encourage family participation in family planning decisions, or any other section of this rule.</p> <p><i>See Unemancipated Minors (p. 2) for more information about specific requirements related to unemancipated minor clients.</i></p>		
	<p>Grantees must use the majority of grant funds to provide direct services to clients.</p> <p>Grantees shall provide a detailed plan or accounting for the use of Title X grant dollars in both their applications for funding and in any annually required reporting.</p> <p>Voluntary family planning projects cannot undertake any significant change in the use of grant funds within the grant cycle without the approval of the Office of Population Affairs.</p>	120 days	59.18(a)
	<p>Voluntary family planning projects must report the following information in grant applications and all required reports:</p> <ul style="list-style-type: none"><li data-bbox="509 924 1392 1103">• Subrecipients and agencies or individuals providing referral services by name, location, expertise, and services provided or to be provided;<li data-bbox="509 1103 1392 1200">• Detailed descriptions of the extent of the collaboration between subrecipients, referral agencies, and any individuals providing referral services; and<li data-bbox="509 1200 1392 1301">• A clear explanation of how the grantee will ensure adequate oversight and accountability for quality and effectiveness of outcomes among subrecipients.	120 days	59.5(a)(13)